

**Statement of Matthew Bettenhausen**

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**April 24, 2008**

**Before the House Homeland Security Committee**

**Subcommittee on Intelligence, Information Sharing, and**

**Terrorism Risk Assessment**

**Moving Beyond the First Five Years: Evolving the Office of Intelligence and**

**Analysis to Better Serve, State, Local, and Tribal Needs**

Chairwoman Harman, Ranking Member Reichert, and Members of the Subcommittee, thank you for the opportunity to appear before you this morning to discuss the critical role State and local public safety agencies have in preventing terrorism and how the Office of Intelligence and Analysis can do more to enlist, entrust and empower our first preventers.

Let me begin by taking a moment to acknowledge the Chairwoman's commitment to enhancing the preparedness of local communities for both terrorism and natural disasters. Your leadership and role in overseeing the Department of Homeland Security has paid significant dividends. You and your colleagues have not been afraid to ask the difficult questions. The sense of urgency this Committee has brought to homeland security issues, has also been a catalyst for change within the Department and throughout government.

This morning, I want to share with you why we need to enlist, entrust and empower State and local preventers and how invaluable fusion centers are to California's homeland security strategy. The progress being made by the Department of Homeland Security and the Department of Justice in this effort is noteworthy. Congress has also provided sound policy direction and the resources to ensure an effective network of fusion centers is built with the capability of protecting our communities and critical infrastructure from terrorist attacks. It is also important to recognize that our best efforts to share information will be in vain without a firm commitment at all levels of government to ensure fusion centers and analysts institutionalize policies to protect privacy and civil liberties. Finally, I want to highlight some of the areas where the Department's Office of Intelligence and Analysis can do more to enhance the effectiveness and sustainability of fusion centers.

### **State and Local First Preventers**

Prior to 9/11, State and locals were all too often an afterthought in counterterrorism efforts. This has proven to be a hard mindset to change. Many of our federal partners underestimate the unique capabilities of State and local public safety agencies. There has been progress on brining locals into the counterterrorism effort, but we are not there yet. For this reason, I take every opportunity to remind my federal partners that, as counterterrorism efforts evolve, we must work with our first preventers to uncover the recruitment, fundraising (money-laundering), networking and operational planning of Islamic extremists in the United States.

Early in my career, I realized the need to enlist State and locals in our counterterrorism efforts. It was in the wake of the Oklahoma City bombing in 1995, while I was serving as a federal prosecutor in Chicago. My colleagues and I in the U.S. Attorney's Office were busy looking through international flight data for a global nexus to this tragic attack. In the meantime, an Oklahoma Highway Patrol trooper stopped a yellow 1977 Mercury Marquis without a license plate. The driver of the car was Timothy McVeigh. The alert trooper arrested McVeigh for carrying a loaded firearm. Three days

later he was identified as the man being sought in the nationwide manhunt for killing 168 and injuring 800 United States citizens.

The Olympic Bomber case is another example of the critical role of local preventers. As the Committee knows, Eric Rudolph conducted a series of bombings across the southern United States, which killed three people and injured at least 150 others. He declared that his bombings were part of a guerrilla campaign against abortion. Despite the extensive manhunt efforts of the FBI and the Alcohol, Tobacco, and Firearms Agency, Rudolph was ultimately arrested and brought to justice by a local police officer in North Carolina who was on a routine patrol and observed Rudolph scavenging for garbage in a dumpster behind a Save-A-Lot store.

In a more recent case, the Fort Dix Six, a group of six radical Islamist men allegedly plotting to stage an attack on the Fort Dix military base in New Jersey, were arrested by the FBI on May 7, 2007. They were subsequently charged with planning an attack against U.S. soldiers. The aim of the six men was said to be to "kill as many soldiers as possible." Local law enforcement was alerted to the group when one of the suspects requested that a neighborhood electronics store convert a video tape to DVD that depicted the suspects firing weapons and shouting jihadist slogans in the Poconos. Store employees notified law enforcement, a federal investigation ensued and they monitored the suspects until arresting them.

Closer to home for the Chairwoman is the Torrance Case. In this case, Kevin James, a Muslim convert, founded a radical Islamic group called Jam'iyyat Ul-Islam Is-Saheeh (JIS), Arabic for Assembly of Authentic Islam, from his cell in Folsom Prison in California. James recruited fellow inmates to join a prison based terrorist cell and recruit both released inmates and new recruits to join his mission to kill those he considered infidels in the Los Angeles area. The break in the case came when local police officers in Torrance, California, arrested two men in connection with a string of armed robberies at convenience stores. During the investigation, the local police officers noticed Islamic extremist materials during one of their searches. These officers had also received terrorism awareness training. A cooperative and collaborative federal, State and local investigation began to unravel their more sinister intentions to attack military recruiting stations, National Guard Armories and Jewish sites in Los Angeles. Late last year, Kevin James pled guilty to "conspiracy to levy war against the United States through terrorism" and faces up to 20 years in federal prison upon release from State Prison.

International cases also rely on leads generated by local preventers. As was the case when local police in the United Kingdom discovered suspicious US Navy information after arresting Babar Ahmad, the leader of a terrorist support cell and a computer specialist working on the now defunct Azzam.com, an Islamist extremist website. The previously classified information planned movements of a US Navy battle group was found in Ahmad's room at his parent's home in London. After the discovery of these documents, officials in the UK alerted the FBI. US authorities subsequently issued search warrants upon e-mail accounts associated with the Azzam.com websites and discovered e-mail communications from Abujihad (formerly known as Paul Hall) dating

from late 2000 and the Fall of 2001 from his personal and military based e-mail accounts. Information gleaned through the original search ultimately led to the arrest of Abujihad.<sup>1</sup> During the investigations of Abujihad and his onetime roommate Derrick Shareef<sup>2</sup>, investigators learned of a discussion between the two to carry out a sniper attack on a military installation in San Diego. Thus, this is another recent example of terrorism prevention in action.

These are just a few of the many cases where State and local public safety officials have been at the center of our national and international counterterrorism efforts. These examples underscore how State and locals are in the best position to discover and disrupt Islamic extremist activity in our communities.

### **California's State Terrorism Threat Assessment System**

To develop an accurate depiction of our international adversaries, intentions, and capabilities, supporters and motivators, California moved quickly after 9/11 to establish a Terrorism Threat Assessment System. The State Terrorism Threat Assessment System (STTAS) is responsible for local regional and statewide information sharing and analysis. The STTAS is comprised of four Regional Terrorism Threat Assessment Centers (RTTAC) and one State Terrorism Threat Assessment Center (STTAC). The RTTACs are located in San Diego, Los Angeles, San Francisco Bay Area and Sacramento. These four regional locations mirror the four U.S. Districts in California, as well as the four Federal Bureau of Investigation field offices and Joint Terrorism Task Forces. Each fusion center is comprised of representatives from a variety of State, local, and federal public safety agencies.

The State fusion center is designed to provide California's senior leaders with: situational awareness of identified threats; critical infrastructure information; and access to the latest local, state and national terrorism information analysis products and assessments. The STTAC provides: statewide assessments and studies; information tracking and pattern analysis; terrorism awareness training; and communication connections with the FBI, DHS and other federal agencies.

The Regional fusion centers: integrate the intake, analysis, fusion, and synthesis of intelligence information with an emphasis on terrorist threat intelligence; identify patterns and trends that may be indicative of emerging threats; and provide relevant, timely and actionable intelligence products for the region. The RTTACs establish policies to share and exchange terrorism-related information and intelligence products

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<sup>1</sup> Abujihad was convicted March 5, 2008, of providing material support to terrorists and disclosing classified national defense information. His sentencing is set for May 2008 and he faces up to 25 years in federal prison.

<sup>2</sup> On November 29, 2007, Shareef changed his original plea and pled guilty to plotting a grenade attack on a Rockford, Illinois mall.

with public and private sector organizations having public safety and infrastructure protection responsibilities.

There are currently 15 personnel assigned, or pending assignment, to the STTAC from a mix of state agencies, including the State Office of Homeland Security, the California Highway Patrol and the California National Guard. The regional fusion centers vary in size from 15 individuals in the Sacramento and San Diego RTTACs, 40 individuals in the Los Angeles RTTAC, and 44 individuals in the San Francisco Bay Area RTTAC.

The State and regional centers are supported by a network of Terrorism Liaison Officers (TLOs) and a secure web-based information sharing system to distribute and receive information. The TLOs serve as the local public agency and private entity point of contact for all terrorism-related issues. At the local level, law enforcement and public safety agencies are designating TLOs who are trained in terrorism awareness, the review and assessment of local incidents and in conducting outreach to other public safety agencies, critical infrastructure operators and community groups. The TLO is the local agency point-of-contact for all terrorism-related alerts and suspicious activity reports, requests for information, warnings and other notifications from regional, state or federal homeland security agencies. The TLOs review local-agency reports, manage local reporting and initiate or respond to requests for information. The TLOs have an ongoing relationship with other local agencies, especially those with daily contact in the community, and develop relationships with critical infrastructure sites within their respective jurisdictions, establishing a personal connection with their security and management staff.

California has trained over 4,300 TLOs through a formal training program, approved and certified by both the Department and the California Commission on Peace Officer Standards and Training (POST). We have also expanded the TLO program to include an initial group of over 70 individuals representing state agencies in Sacramento who will be connecting state agencies directly to the STTAC.

With the support of the federal homeland security grants, our future investments will include: (1) expanding the existing threat assessment analytical capabilities at the fusion centers; (2) expanding the training of Terrorism Liaison Officers; (3) expanding the existing statewide information sharing technologies; (4) expanding law enforcement counter-terrorism case de-confliction efforts; (5) ensuring secure connections to federal classified networks; and (6) enhancing public and private sector information sharing partnerships.

### **State and Local Fusion Centers Need Federal Support**

I first want to recognize the initiative the Department of Homeland Security has begun to embed DHS Intelligence Analysts in State and regional fusion centers. This effort is to be applauded. Similarly, I would be remiss if I did not recognize the contribution of the FBI Special Agents in Charge in California for their partnership and

support of California's fusion centers. In particular, cooperation by the Los Angeles FBI office resulted in space being donated to house the Los Angeles area analysts. This collaboration continues, as the Los Angeles RTTAC is being ably led by Ms. Leslie Gardner of the FBI. I cannot underscore enough the value of these partnerships to the overall success of our fusion centers.

The recently released National Strategy for Information Sharing (Strategy) is also praiseworthy, as it provides clear and concise direction to all levels of government for improving information sharing and enhancing terrorism prevention. The Strategy recognizes the critical role of State and local first responders and first preventers in preventing acts of terrorism and finally seeks to include them as full and equal partners in this prevention mission. The Strategy validates the unique roles, resources, and perspectives of State and local public safety agencies and represents a much needed change from our former federal-centric approach to combating terrorism.

We are committed to quickly implementing the Strategy and I am pleased to report that one of the key elements - suspicious activity reports - is being piloted in California by the Los Angeles Police Department (LAPD). The goals of the pilot program are to standardize internal processes and institutionalize counter-terrorism reporting throughout the LAPD. The collection of this data will enable the LAPD and other partners to develop a measurement tool for terrorism related behavior and activities to identify indicators of emerging threats.

The establishment of the Interagency Threat Assessment and Coordinating Group (ITACG) is another positive step being taken by DHS and our federal partners. The ITACG has the potential to bring a State and local perspective to products produced by the Intelligence Community and better ensure our federal partners understand the resources States and locals can bring to the terrorism prevention mission. The ITACG also has the potential to enhance our ability to turn information analyzed at the national level into action at the operational level. However, more work needs to be done to better define the information requirements of the Intelligence Community from State and local public safety agencies. Locals need clearer direction on the types of information that can and should be shared. We must move further on the presumption of sharing information rather than classifying and siloing information.

At the operational level, fusion center analysts have been pleased with the Department of Homeland Security's deployment of the Homeland Security Information Network (HSIN), a system for sharing sensitive analytical products. Under Mr. Charlie Allen's leadership, the Department has improved both the timeliness and the quality of the HSIN products. Responses to requests for information from State and local agencies have also been more timely. We must also quickly complete the deployment of the Homeland Security Data Network (HSDN) to the fusion centers to allow for the effective exchange of classified information.

Another positive development has been the establishment of the Homeland Security State and Local Intelligence Community Interest (HSIN-SLIC) web portal. The

HSIN-SLIC provides a secure forum for analysts from over 43 states and 6 federal agencies to directly share information with each other. The forum is also supported by weekly threat teleconferences. Early feedback has indicated that this is one of the more promising venues to share information horizontally and to identify emerging national threats.

### **Fusion Centers' Role in Protecting Critical Infrastructure**

Fusion centers should also be leveraged to enhance critical infrastructure and prevention capabilities. DHS should act on the recommendations made by the State, Local, Tribal and Territorial Government Coordinating Council (SLTTGCC) to establish the critical infrastructure and key resource desks (CIKR Desk) at State fusion centers. (see attachment). As the SLTTGCC noted, the key function of the CIKR Desk in fusion centers would be the integration of threat, vulnerability, and consequence data to develop information products for public safety and private entities with security responsibilities.

In California, fusion centers are being utilized to extend training to our private sector partners. At the Governor's direction, the requirements for licensed security professionals were modified to mandate enrollment in a four-hour terrorism-awareness training program. This common sense policy change will ultimately provide terrorism training to the approximately 400,000 licensed security professionals in California. We have also implemented a terrorism-awareness training program amongst professional and trade associations to ensure that they have current trend and pattern information, threat assessments and connectivity to their RTTAC. Additionally, the State fusion center is working closely with the agricultural industry to protect this critical resource by formulating an initiative with the California Department of Food and Agriculture to deliver a one-day TLO course to each of the 58 county agriculture commissioners. Furthermore, a partnership is being formed with the State's Rural Crime Task Force to train its members in terrorism awareness and California's information sharing protocols.

The RTTACs have been working closely with my office to identify, prioritize and protect the State's broad array of critical infrastructure and key resources (CI/KR). These efforts have been closely coordinated with a broad group of private-sector partners—those entities that own and operate the bulk of the State's assets and resources. Such partnerships include site owners and operators, first responders, public and private organizations and associations, and other levels of government, including local, State, federal, and tribal partners.

The Automated Critical Asset Management System (ACAMS) is a Web-enabled information services portal which helps our state and local governments build critical infrastructure/key resource (CI/KR) protection programs. ACAMS provides a set of tools and resources that help law enforcement, public safety and emergency response personnel: collect and use CI/KR asset data; assess CI/KR asset vulnerabilities; develop all-hazards incident response and recovery plans; and build public/private partnerships. ACAMS is a secure, online database and database management platform that allows for the collection and management of CI/KR asset data; the cataloguing, screening and

sorting of this data; the production of tailored infrastructure reports; and the development of a variety of pre- and post-incident response plans. The Department of Homeland Security provides ACAMS for free and ACAMS is being developed in more than 32 States and territories.

### **Protecting Privacy and Civil Liberties**

In all of these efforts, we are fully committed to protecting California's residents and respecting their privacy, civil rights and civil liberties. Our fusion centers must comply with our Federal and State Constitutions, laws, regulations and policies regarding the protection of privacy, civil rights and civil liberties. Because protecting these rights is so fundamentally important to our democracy and our office's mission, we established the State Terrorism Threat Assessment Advisory Group (STTAAG) to provide independent and informed advice. The STTAAG is comprised of a broad and diverse membership of Californians who bring a wide range of experiences including public safety, national security, community service, communications, and academia.

The STTAAG Chair is Elizabeth Rindskopf Parker, Dean of the Pacific McGeorge School of Law and a former CIA and NSA General Counsel. The Vice Chair is Craig Manson, who previously served as Assistant Secretary for Fish, Wildlife and Parks in the U.S. Department of the Interior and as a Judge in the Sacramento County Superior Court. The membership also includes Rabbi Abraham Cooper of the Simon Wiesenthal Center, Dafer Dakhil of the Omar Ibn Al Khattab Foundation, prominent members of the Sikh community, the California Broadcasters Association, and representative from various public safety organizations.

Over the past year, we have formalized the existence of the STTAAG through the adoption of a charter. This charter reflects the two primary objectives of the group—providing independent advice on privacy, civil rights and civil liberties issues; and, on how our organization can engage the people we serve is a constructive dialog on who we are and what we are doing to enhance their collective security in a manner which respects their individual liberties.

Along these lines, we co-hosted an outreach event with the Simon Wiesenthal Center last November. A substantial number of my senior staff, along with our federal and local partners in Los Angeles, spent the day with Southern California business, community and religious leaders. We provided them with information on the terrorist threat, the measures that we are taking to mitigate that threat and the role of the citizen in planning for and preventing terrorist attacks against our homeland. It was an incredibly positive session and we hope to host similar events on annual basis around the state

### **Building a More Robust and Sustainable Network of Fusion Centers**

In previous hearings this Subcommittee reviewed the findings of the February 20, 2008 fusion center report issued by CENTRA Technology, Inc. The report focused on three areas in need of improvement: (1) identifying the priority information needs for

both the Department and for State and local fusion centers; (2) streamlining the process for responding to requests for information; and (3) enhancing the open source analytical capabilities of analysts in state and local fusion centers. In general, the Department has acknowledged that these are indeed areas that should be acted upon.

I look forward to working with the Department to assist them in their effort to offer additional open source training opportunities for our first preventers. We are also committed to ensuring timely and accurate responses to requests for information. The Department must also ensure that requests initiated by regional fusion centers and the corresponding responses are carbon copied to state fusion centers. This will ensure States have optimal situational awareness and enhance their ability to identify emerging trends. Additionally, the Department should be clear in issuing their priority information needs and provide routine feed back to State and locals that contribute information to the Intelligence Community.

To be effective, fusion centers must be staffed with well trained and properly cleared personnel. The National Strategy for Information Sharing acknowledges the importance of personnel and states, "the Federal government will support the establishment of these centers and help sustain them through grant funding, technical assistance, and training."<sup>3</sup> Congress also recognized the value of staffing fusion centers in passing H.R. 1, the Implementing Recommendations of the 9/11 Commission Act (9/11 Act), which explicitly allows states and locals to utilize homeland security grants to hire personnel to staff fusion centers.

Notwithstanding the urgent operational need and unequivocal legislative intent, the Department has continued to issue guidance (Information Bulletins 235 and 281) regarding the use of federal funds under the State Homeland Security and Urban Area Security Initiative Grant programs which has been extremely counterproductive and detrimental to State and local efforts to build and sustain a network of fusion centers and contravenes the clear intent of Congress. I urge the Committee to help us eliminate the unduly burdensome and detrimental guidance. We appreciate the recent letter of support from the Chairs and Ranking Members of both the Senate and House Homeland Security Committees.

State and locals have invested a lot of time, money and personnel in terrorism prevention and have absorbed the vast majority of the costs for prevention, protection and infrastructure preparedness with state and local funds. Creating, establishing and sustaining fusion centers has been a success story. Staffing them with qualified, cleared analysts has been, and remains, a challenge. These analysts and fusion centers also clearly work to the benefit of the federal government by allowing for better information sharing and real time communication during a crisis.

Putting unnecessary restrictions on funding while we are still in the developmental stage of the fusion centers and the national information sharing process is extremely unwise. The lack of trained, cleared and experienced analysts will have

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<sup>3</sup> National Strategy for Information Sharing, October 2007

adverse consequences on our infrastructure protection efforts, including their review of classified information and providing information back to DHS's Infrastructure Protection Directorate. California is conducting a number of comprehensive reviews with the Department, and fusion center analysts are assisting in these efforts. We have also developed and invested significant resources in the identification and training of several thousand TLOs at government and private agencies throughout the state. Without a functioning fusion center system, the information gathered by these TLOs will be at risk of not being collected and not being analyzed. It portends another potential failure in both collecting and connecting the dots for potential terrorism plots.

As I mentioned earlier, embedding DHS personnel in regional and state fusion centers is a positive development. DHS should take every opportunity to replicate the success of this initiative by detailing analysts from other components of the Department. Fusion centers should be the logical base of operations for DHS's Protective Security Advisors, rather than being assigned to Secret Service field officers. Additionally, Congress has provided additional resources to the Department to deploy Mass/Surface Transit Security and Aviation Security analysts. These personnel would also be good candidates to embed in regional and state fusion centers. Indeed, all agencies and Departments with either law enforcement or emergency response capabilities should have a significant presence at regional fusion centers. Currently the United States Coast Guard, Federal Bureau of Investigation, and the Drug Enforcement Agency participate in California's regional fusion centers. Our prevention, analytical and information sharing capabilities could only be enhanced by a sustained commitment from the Immigration and Customs Enforcement Agency, the Alcohol, Tobacco, and Firearms and Explosives Agency, and Transit Security Administration.

As we build this nationwide matrix of connected state and local fusion centers staffed by a multi-disciplined analysts from the public safety field, it remains important to ensure that barriers to information sharing from traditional federal, state and local law enforcement agencies are appreciated and reduced consistent with the necessary protection of privileged information. We are building a new capability across the country, focused on prevention, and the key to its success must be the widest possible exchange and access to analysts and information. Great progress has been made, but work remains on demonstrating that Homeland Security professionals and first responders in the fusion centers are equal and relevant partners.

DHS should also expedite the fielding of the Homeland Security Data Network (HSDN) system to the State fusion center. This long awaited project is a needed improvement to California's information sharing and analytical capabilities, as the HSDN system will allow the STTAC and OHS analysts access to some levels of classified information and connectivity with the RTTACs and DHS at the classified level.

Finally, security clearances - both in terms of availability and proper level - remain an issue for State and locals. Perhaps the most recent and best example I can provide you with is the classification of the new Presidential Homeland Security Directive regarding cyber security at the Top Secret level. Unfortunately, the Department

has not recognized the need to issue Top Secret clearances to State and local public safety officers - even when those individuals bear the responsibility of implementing national security directives. There also still remains a disturbing difficulty in ensuring the easy transfer and recognition of clearances across federal agencies and even within DHS itself. These nonsensical and artificial barriers to effective information sharing must be eliminated.

While there has been significant progress, and we recognize the difficulties in reforming government and changing bureaucratic cultures, we are all rightly impatient for improvements. We are rightly outraged by attempts to undercut the effective use of federal grant funds to support the national terrorism prevention mission. We are now nearly seven years from the horrific attacks of 9/11 and we know the nation is still very much at risk. Failures to cooperate, coordinate and collaborate are simply unacceptable and we owe better to the citizens we serve.

Again, thank you for this opportunity to be here today. I will be happy to take your questions.